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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/798,530	03/10/2004	Todd Taricco	155755-0015(P003)	7235

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EXAMINER
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LARKIN, DANIEL SEAN

ART UNIT	PAPER NUMBER
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2856

DATE MAILED: 03/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/798,530	TARICCO, TODD	
	<b>Examiner</b>	<b>Art Unit</b>	
	Daniel S. Larkin	2856	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 March 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. ____.  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date ____.   | 6) <input type="checkbox"/> Other: ____.                                    |

## **DETAILED ACTION**

### ***Drawings***

1. New corrected drawings in compliance with 37 CFR 1.121(d) are required in this application because the photographs submitted are grainy and unclear. Applicant is advised to employ the services of a competent patent draftsman outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

### ***Specification***

2. The abstract of the disclosure is objected to because of the following:

Abstract line 2: The term "Containers " should be corrected to read  
-- containers --.

Abstract line 3: The term "Vessel " should be corrected to read  
-- vessel --. Correction is required. See MPEP § 608.01(b).

3. The disclosure is objected to because of the following informalities:

Page 3, line 2: The article "the" should be corrected to read -- an --; some description is needed after the term "probe"; and a -- period -- should be inserted after the description.

Page 3, line 3: No brief description has been provided for Figure 3.

Page 4, line 1: The term "figure" should be corrected to read -- Fig. --.

Page 4, line 2: The "period" after the term "container" should be corrected with a -- comma --; and a -- period -- should be inserted after the abbreviation "Fig." and the numeral "15".

Page 4, line 3: The article -- a -- should be inserted prior to the term "method".

Page 4, line 4: The abbreviation "Fig." should be corrected to read -- Figs. --; and a -- comma -- should be inserted after the term "container".

Page 4, lines 4 and 5: The phrase "Fig.1" should be corrected to read -- Fig. 1 --.

Page 4, line 5: A -- comma -- should be inserted after the term "container".

Page 4, lines 5 and 6: The "insertion probe" has not been previously disclosed. Applicant appears to be describing the probe as if someone reading would have previously known about the probe.

Page 4, line 6: The phrase "Fig.2" should be corrected to read -- Fig. 2 --; and a -- comma -- should be inserted after the term "container".

Page 4, lines 8 and 9: The "insertion seals" has not been previously disclosed. Again it appears that applicant is describing an aspect of the invention as if the person reading would have previously known about the invention.

Page 4, line 8: The verb -- are -- should be inserted after the term "seals".

Page 4, line 9: The phrase "Fig.2 & 3 item 7" should be deleted and inserted after the term "convex".

Page 4, line 9: The phrase "Fig.2" should be corrected to read -- Figs. 2 --.

Page 4, line 11: A -- comma -- should be inserted after the term "key" and the numeral "10"; and the phrase "Fig.2" should be corrected to read -- Fig. 2 --.

Appropriate correction is required.

### ***Claim Objections***

4. Claims 1, 3, and 5-7 are objected to because of the following informalities:

Re claim 1, claim line 3: The "period" should be replaced with a -- semicolon --.

A claim is only allowed to have a single period at the end of the claim.

Re claim 1, claim line 5: The "period" should be replaced with a -- semicolon --.

Re claim 4, claim line 1: The article -- A -- should be corrected to read -- An --.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

6. Claims 1, 3, and 5-7 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

The specification fails to provide an enabling description for pressurizing and depressurizing a shipping container and extracting gases from the container. First, the specification fails to expressly recite how the means to pressurize and depressurize the container gain access to the inside environment of the container, and how the pressurizing and depressurization takes place. The specification further fails to provide any disclosure of exposing the container to a pressure under 1 psi positive and negative pressure, as recited in claim 1. The specification only cites reference numeral 3 as the means to pressurize the container; however, no description of this element is ever provided. Second, the specification fails to explain if the pressurization is done through the mating of a probe with a soft seal on the container. The specification recites that the insertion probe separates a seal to gain access to the container; however, the specification never positively made clear that the container was provided with seals that could be engaged by an insertion probe.

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claims 1-7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Re claim 1, claim line 3: What is inserted or mated to the elastomeric seal?

Re claim 2, claim lines 1 and 2: This claim is indefinite because one is unsure of the methodology undertaken in order to insert the probe through a seal.

Re claim 2, claim lines 1 and 2: The phrase "the container" lacks antecedent basis.

Re claim 3, claim line 1: This claim is indefinite because one is unsure of the methodology undertaken in order to insert the probe through a seal.

Re claim 4, claim lines 1-3: This claim is narrative in form and not clearly understandable.. Applicant should consider listing the elements of the apparatus claim, which would make the claim more coherent.

Re claim 4, claim line 2: The phrase "the matting device" lacks antecedent basis.

Re claim 4, claim lines 2 and 3: The phrase "the unique serial number" lacks antecedent basis.

Re claim 5, claim line 1: The phrase "the mounting" lacks antecedent basis; claim 1 defines a method claim not an apparatus claim; and the phrase "the spreader" lacks antecedent basis.

Re claim 6, claim line 1: The phrase "the mounting" lacks antecedent basis; claim 2 defines a method claim not an apparatus claim; and the phrase "the spreader" lacks antecedent basis.

Re claim 7, claim line 1: The phrase "the mounting" lacks antecedent basis; claim 3 defines a method claim not an apparatus claim; and the phrase "the spreader" lacks antecedent basis.

***Claim Rejections - 35 USC § 102***

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

10. Claim 2 is rejected under 35 U.S.C. 102(e) as being anticipated by US 2003/0201394 (Peoples).

The reference to Peoples discloses a crane mounted cargo container inspection apparatus and method, whereby the reference discloses that a radiation and chemical detectors can be mounted on the crane to detect illicit materials contained within the cargo container. The reference further discloses that a sampling probe may be inserted through a spring-loaded door/soft seal located in the wall of the container to sample the interior of the cargo container.

***Conclusion***

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The prior art to US 3,705,474 (Smith) discloses a container (2) for holding GB toxic agent (11), whereby the container (2) is provided with ports (12) so as to test the interior of the container (2) for toxic contamination.



The prior art to US 5,347,845 (Kepler) discloses an appliance shipping container and a sampling system comprising a shipping container (12), a soft seal (36) for gaining entry into the interior of the container (12); a probe (32) for gathering a sample from the interior of the container (12), and a gas analyzer (30) to detect the presence of leaking gas from the appliance contained within the container (12).

The prior art to US 5,942,699 (Ormath et al.) discloses a method and apparatus for sampling contaminants comprising: placing an article under test (70) into a chamber (10); pressurizing and depressurizing the chamber; and withdrawing air from the chamber (10) during depressurization to a chromatography instrument to determine the presence of any chemical residues and illicit substances contained within the article (70).

The prior art to US 4,718,268 (Reid et al.) discloses that a plug containing a valve may be placed within the wall of a cargo container so that air within the interior of the container may be sampled to determine the presence of illicit substances, col. 5, lines 20-34.


12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel S. Larkin whose telephone number is 571-272-2198. The examiner can normally be reached on 8:00 AM - 5:00 PM Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hezron Williams can be reached on 571-272-2208. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2856

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Daniel Larkin  
AU 2856  
20 March 2005



**DANIEL S. LARKIN**  
**PRIMARY EXAMINER**